Remarks

Prior to entry of this amendment, claims 1-23 were pending in the application. Claims 1, 3, 21 and 23 have been amended. Support for the amendment of claim 1 can be found throughout the specification, for example on page 3, line 5-9; and page 4, lines 2-12. Claim 3 has been amended to add a reference to the amino acid sequence of VP22 (SEQ ID NO:12). Claim 21 has been amended to correct an obvious typographical error. Claim 23 is amended herein to be in independent form.

No new matter is introduced by the foregoing amendments. After entry of this amendment, **claims 1-23 are pending in this application.**

Reconsideration of the pending claims is requested.

Rejection Under 35 U.S.C. § 112, second paragraph

Claim 3 was rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for not referring to a specific sequence identifier. Claim 3 is amended herein to refer to SEQ ID NO: 12, rendering the rejection moot.

Rejection Under 35 U.S.C. §102(b):

Claims 1-3, 10, 17, 18, 20 and 21 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by PCT Publication No. WO 97/05265. Applicants respectfully disagree with this rejection.

The claimed particles are specific types of stable aggregated particles. The particles are stable and they are an association of VP22 with an oligonucleotide or a polypeptide.

PCT Publication No. WO 97/05265 does not specifically describe such stable aggregated particles. Rather, PCT Publication No. WO 97/05265 describes use of a transport protein VP22 which may (or may not) be associated with another molecule, which may be for example, a protein, peptide, nucleic acid, drug etc. Moreover, PCT Publication No. WO 97/05265 does not disclose particles of the defined size range of the present invention. Nor does PCT Publication No. WO 97/05265 disclose the specified methods used for making the aggregated particles.

Reconsideration and withdrawal of the rejection are respectfully requested.

Rejections Under 35 U.S.C. §102(e):

Claims 1-3, 15, 16, 18, 20 and 21 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,184,038 (O'Hare et al.). Applicants respectfully disagree with this rejection.

O'Hare et al. does not specifically describe such stable aggregated particles. Rather, O'Hare et al. describes use of a transport protein VP22 which may (or may not) be associated with another molecule, which may be for example, a protein, peptide, nucleic acid, drug etc. Moreover, O'Hare et al. does not disclose particles of the defined size range of the present invention. Nor does O'Hare et al. disclose the specified methods used for making the aggregated particles.

Reconsideration and withdrawal of the rejection are respectfully requested.

Rejections Under 35 U.S.C. §103:

Claims 1-22 were rejected under 35 U.S.C. § 103(a) as allegedly being obvious over O'Hare et al. in view of Hawley-Nelson et al. and Schwartz et al., further in view of Moyer et al. Applicants respectfully disagree with this rejection.

None of the cited references when read either alone or in combination suggest, or render obvious, the claimed VP22 aggregated particles.

As discussed above, O'Hare et al. does not mention or suggest these specific particle types. Hawley Nelson also describes entirely different peptide-nucleic acid complexes. Hawley Nelson actually discloses "transfection compositions" which contain a protein or protein-lipid conjugates and nucleic acids. In all cases the actual transfection agents, preferably cationic lipids, are used to form the complexes. VP22 is mentioned as part of a long list of proteins.

The Moyer citation does not even mention any aggregates nor does this citation disclose the use of VP22. Schwartz also describes different types of aggregates to those of the present invention. The Schwartz aggregates comprise cationic lipids which aggregate with anionic macromolecules. Although claim 17 of the present application does specify a liposome, the liposome in the present invention merely encapsulates the already formed VP22 aggregates.

Hence, the combination of the above references does not lead to the presently claimed stable aggregated VP22 particles. Indeed, if the skilled person were to read the above citations they would likely teach away from the present invention as the skilled person would use the

molecules described by O'Hare for transport or they would make the different types of complexes described in Hawley Nelson or Schwartz for transport. One of skill in the art would not be motivated to adapt the above and make the present VP22 particles.

Reconsideration and withdrawal of the rejection are respectfully requested.

Allowable Subject Matter

Applicants thank the Examiner for noting that claim 23 is free of the prior art of record. Claim 23 is amended herein to be in independent form.

Conclusion

It is respectfully submitted that the present claims are in a condition for allowance. Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

Respectfully submitted,

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